

**Representative Gregory H. Hughes** proposes the following substitute bill:

**ANNEXATION AMENDMENTS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gregory H. Hughes**

Senate Sponsor: Wayne L. Niederhauser

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**LONG TITLE**

**General Description:**

This bill modifies provisions relating to municipal annexations.

**Highlighted Provisions:**

This bill:

- ▶ changes a time period before which a public hearing on a proposed annexation may not be held from 60 to 30 days after adoption of a resolution proposing the annexation;
- ▶ authorizes a municipality to adopt an annexation ordinance without allowing or considering protests if 75% of property owners have consented to the annexation;
- ▶ modifies the protest threshold for a certain type of annexation;
- ▶ eliminates the requirement of county legislative body approval for a certain type of annexation;
- ▶ modifies the criteria for a municipality to annex an unincorporated island or peninsula without an annexation petition;
- ▶ exempts certain annexations from provisions relating to the effective date of annexations;
- ▶ establishes an immediate conclusive presumption in favor of annexations that have been finalized without allowing or considering protests; and



26           ▶ eliminates a requirement to provide affected entities with a notice of the enactment  
27 of an annexation ordinance.

28 **Monies Appropriated in this Bill:**

29           None

30 **Other Special Clauses:**

31           None

32 **Utah Code Sections Affected:**

33 AMENDS:

34           **10-2-418**, as last amended by Chapter 227, Laws of Utah 2003

35           **10-2-425**, as last amended by Chapter 233, Laws of Utah 2005



37 *Be it enacted by the Legislature of the state of Utah:*

38           Section 1. Section **10-2-418** is amended to read:

39           **10-2-418. Annexation of an island or peninsula without a petition -- Notice --**  
40 **Hearing.**

41           (1) (a) Notwithstanding Subsection 10-2-402(2), a municipality may annex an  
42 unincorporated area under this section without an annexation petition if:

43           (i) (A) the area to be annexed consists of one or more unincorporated islands within or  
44 unincorporated peninsulas contiguous to the municipality;

45           (B) the majority of each island or peninsula consists of residential or commercial  
46 development;

47           (C) the area proposed for annexation requires the delivery of municipal-type services;  
48 and

49           (D) the municipality has provided most or all of the municipal-type services to the area  
50 for more than one year; or

51           (ii) (A) the area to be annexed consists of one or more unincorporated islands within or  
52 unincorporated peninsulas contiguous to the municipality, each of which has fewer than [500]  
53 800 residents; and

54           (B) the municipality has provided one or more municipal-type services to the area for  
55 at least one year.

56           (b) Notwithstanding Subsection 10-2-402(1)(b)(iii), a municipality may annex a

57 portion of an island or peninsula under this section, leaving unincorporated the remainder of  
58 the unincorporated island or peninsula, if:

59 (i) in adopting the resolution under Subsection (2)(a)(i), the municipal legislative body  
60 determines that not annexing the entire unincorporated island or peninsula is in the  
61 municipality's best interest; and

62 (ii) for an annexation of one or more unincorporated islands under Subsection  
63 (1)(a)(ii), the entire island of unincorporated area, of which a portion is being annexed,  
64 complies with the requirement of Subsection (1)(a)(ii)(A) relating to the number of residents.

65 (2) (a) The legislative body of each municipality intending to annex an area under this  
66 section shall:

67 (i) adopt a resolution indicating the municipal legislative body's intent to annex the  
68 area, describing the area proposed to be annexed;

69 (ii) (A) publish notice at least once a week for three successive weeks in a newspaper  
70 of general circulation within the municipality and the area proposed for annexation; or

71 (B) if there is no newspaper of general circulation in the areas described in Subsection  
72 (2)(a)(ii)(A), post at least one notice per 1,000 population in places within those areas that are  
73 most likely to give notice to the residents of those areas;

74 (iii) send written notice to the board of each special district whose boundaries contain  
75 some or all of the area proposed for annexation and to the legislative body of the county in  
76 which the area proposed for annexation is located; and

77 (iv) hold a public hearing on the proposed annexation no earlier than ~~[60]~~ 30 days after  
78 the adoption of the resolution under Subsection (2)(a)(i).

79 (b) Each notice under Subsections (2)(a)(ii) and (iii) shall:

80 (i) state that the municipal legislative body has adopted a resolution indicating its intent  
81 to annex the area proposed for annexation;

82 (ii) state the date, time, and place of the public hearing under Subsection (2)(a)(iv);

83 (iii) describe the area proposed for annexation; and

84 (iv) except for an annexation that meets the property owner consent requirements of  
85 Subsection (3)(b), state in conspicuous and plain terms that the municipal legislative body will  
86 annex the area unless, at or before the public hearing under Subsection (2)(a)(iv), written  
87 protests to the annexation are filed by the owners of private real property that:

88 (A) is located within the area proposed for annexation;

89 (B) covers a majority of the total private land area within the entire area proposed for  
90 annexation; and

91 (C) is equal in value to at least 1/2 the value of all private real property within the  
92 entire area proposed for annexation.

93 (c) The first publication of the notice required under Subsection (2)(a)(ii)(A) shall be  
94 within 14 days of the municipal legislative body's adoption of a resolution under Subsection  
95 (2)(a)(i).

96 (3) (a) Upon conclusion of the public hearing under Subsection (2)(a)(iv) [~~and subject~~  
97 ~~to Subsection (3)(b)~~], the municipal legislative body may adopt an ordinance annexing the area  
98 proposed for annexation under this section unless, at or before the hearing, written protests to  
99 the annexation have been filed with the city recorder or town clerk, as the case may be, by the  
100 owners of private real property that:

101 (i) is located within the area proposed for annexation;

102 (ii) covers[~~:(A) for a proposed annexation under Subsection (1)(a)(i);~~] a majority of  
103 the total private land area within the entire area proposed for annexation; [~~or~~] and

104 [~~(B) for a proposed annexation under Subsection (1)(a)(ii), 10% of the total private~~  
105 ~~land area within the island of unincorporated area that is proposed for annexation; and]~~

106 (iii) is equal in value to at least[~~:(A) for a proposed annexation under Subsection~~  
107 ~~(1)(a)(i);~~] 1/2 the value of all private real property within the entire area proposed for  
108 annexation[~~; or~~].

109 [~~(B) for a proposed annexation under Subsection (1)(a)(ii), 10% of the value of all~~  
110 ~~private real property within the island of unincorporated area that is proposed for annexation.]~~

111 [~~(b) A municipal legislative body may not adopt an ordinance annexing an area~~  
112 ~~proposed for annexation under Subsection (1)(a)(ii) unless the legislative body of the county in~~  
113 ~~which the area proposed for annexation has previously adopted a resolution approving the~~  
114 ~~annexation.]~~

115 (b) (i) Upon conclusion of the public hearing under Subsection (2)(a)(iv), a  
116 municipality may adopt an ordinance annexing the area proposed for annexation under this  
117 section without allowing or considering protests under Subsection (3)(a) if the owners of at  
118 least 75% of the total private land area within the entire area proposed for annexation have

119 consented in writing to the annexation.

120 (ii) Upon adoption of an annexation ordinance under Subsection (3)(b)(i), the area  
121 annexed shall be conclusively presumed to be validly annexed.

122 (c) Subsections 10-2-425(4) and (5) do not apply to an annexation under this section.

123 (4) (a) If protests are timely filed that comply with Subsection (3), the municipal  
124 legislative body may not adopt an ordinance annexing the area proposed for annexation, and  
125 the annexation proceedings under this section shall be considered terminated.

126 (b) Subsection (4)(a) may not be construed to prohibit the municipal legislative body  
127 from excluding from a proposed annexation under Subsection (1)(a)(ii) the property within an  
128 unincorporated island regarding which protests have been filed and proceeding under  
129 Subsection (1)(b) to annex some or all of the remaining portion of the unincorporated island.

130 Section 2. Section **10-2-425** is amended to read:

131 **10-2-425. Filing of plat or map and amended articles -- Notice requirements.**

132 (1) Within 30 days after enacting an ordinance annexing an unincorporated area or  
133 adjusting a boundary under this part, the municipal legislative body shall:

134 [~~(a)~~ send notice of the enactment to each affected entity;]

135 [~~(b)~~] (a) file with the lieutenant governor:

136 (i) a certified copy of the ordinance approving the annexation or boundary adjustment,  
137 together with a plat or map prepared by a licensed surveyor, approved by the municipal  
138 legislative body, and filed with the county surveyor in accordance with Section 17-23-17,  
139 showing the new boundaries of the affected area; and

140 (ii) (A) if the municipality has articles of incorporation, amended articles of  
141 incorporation reflecting the annexation or boundary adjustment, as provided in Section  
142 10-1-117; or

143 (B) if the municipality does not have articles of incorporation, written notice of the  
144 adoption of an annexation ordinance, accompanied by a copy of the ordinance; and

145 [~~(c)~~] (b) in accordance with Section 26-8a-414, file the documents described in  
146 Subsection (1)[~~(b)~~](a)(i) with the Department of Health.

147 (2) If an annexation or boundary adjustment under this part also causes an automatic  
148 annexation to a local district under Section 17B-2-515.5 or an automatic withdrawal from a  
149 local district under Subsection 17B-2-601(2), the municipal legislative body shall, as soon as

150 practicable after enacting an ordinance annexing an unincorporated area or adjusting a  
151 boundary, send notice of the annexation or boundary adjustment to the local district to which  
152 the annexed area is automatically annexed or from which the annexed area is automatically  
153 withdrawn.

154 (3) The municipal legislative body shall comply with the notice requirements of  
155 Section 10-1-116.

156 (4) ~~[Each]~~ Except for an annexation under Section 10-2-418, each notice required  
157 under Subsections (1) and (3) relating to an annexation shall state the effective date of the  
158 annexation, as determined under Subsection (5).

159 (5) ~~[An]~~ Except for an annexation under Section 10-2-418, an annexation under this  
160 part is completed and takes effect:

161 (a) for the annexation of an area located in a county of the first class:

162 (i) July 1 following enactment of an ordinance annexing the unincorporated area if:

163 (A) the ordinance is adopted during the preceding November 1 through April 30; and

164 (B) the requirements of Subsection (1) are met before that July 1; or

165 (ii) January 1 following enactment of an ordinance annexing the unincorporated area if:

166 (A) the ordinance is adopted during the preceding May 1 through October 31; and

167 (B) the requirements of Subsection (1) are met before that January 1; and

168 (b) for all other annexations, the date of the lieutenant governor's issuance of:

169 (i) a certification of amended articles under Subsection 10-1-117(3), for an annexation

170 by a municipality that has articles of incorporation and filed with the lieutenant governor

171 amended articles of incorporation under Subsection (1)(a)(iii)(A); or

172 (ii) a certificate of annexation under Subsection (1)(b), for an annexation by a

173 municipality that does not have articles of incorporation and filed with the lieutenant governor

174 a notice of adoption of an annexation ordinance under Subsection (1)(a)(iii)(B).

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**H.B. 362 1st Sub. (Buff) - Annexation Amendments**

**Fiscal Note**

2007 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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